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Attorneys for City of Newark (improperly pled as "Newark Police
Department")

By: Avion M. Benjamin (AB-5629)
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JARRETT CHAMBERS, by his
guardian ad litem, PAMELA
MCKEON, ET ALS.

Plaintiff(s),

v.

CITY OF NEWARK, CITY OF NEWARK
POLICE DEPARTMENT, ABC CORP. 1
through 10, XYZ CORP. 1
through 10, JOHN DOES 1
through 10, and JACK DOES 1
through 10 individually and in
their official capacity,

Defendants.

:
: CIVIL ACTION NO. 11-6994 (KSH)
:

:
: ANSWER OF DEFENDANT
: CITY OF NEWARK TO SECOND
: AMENDED COMPLAINT
:

Defendant, CITY OF NEWARK, by way of Answer to the above-
captioned Second Amended Complaint says:

JURISDICTION

1. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

2. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
3. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
4. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

PARTIES

5. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
6. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
7. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
8. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
9. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
10. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to

his proofs.

11. Admit.

12. Admit.

13. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

14. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

15. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

16. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

STATEMENT OF FACTS

17. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

18. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

19. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

20. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

21. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

FIRST CAUSE OF ACTION
42 U.S.C. 1983
DEPRIVATION OF CIVIL RIGHTS
EXCESSIVE USE OF FORCE

22. This Defendant repeats and relies upon its Answers to the prior allegations of Plaintiff's Complaint as though it were set forth herein.
23. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
24. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
25. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
26. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
27. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
28. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
29. This Defendant lacks sufficient knowledge and information as

to the allegations contained herein and Plaintiff is left to his proofs.

30. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

SECOND CAUSE OF ACTION

42 U.S.C. 1983

FAILURE TO TRAIN BY DEFENDANT CITY OF NEWARK

31. Denied.

32. Denied.

THIRD CAUSE OF ACTION

VIOLATION OF 42 U.S.C. 1983 FAILURE TO IMPLEMENT APPROPRIATE POLICIES, CUSTOMS AND PRACTICES

33. This Defendant repeats and relies upon its Answers to the prior allegations of Plaintiff's Complaint as though it were set forth herein.

34. This Defendant repeats and relies upon its Answers to the prior allegations of Plaintiff's Complaint as though it were set forth herein.

35. Denied.

36. Denied.

37. Denied.

38. The allegations in this paragraph are not asserted against this Defendant.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

FOURTH CAUSE OF ACTION
VIOLATION OF 42 U.S.C. 1983
SUPERVISORY LIABILITY RESPONDENT SUPERIOR

45. This Defendant repeats and relies upon its Answers to the prior allegations of Plaintiff's Complaint as though it were set forth herein.

46. Denied.

47. Denied.

48. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and leaves Plaintiff to his proofs.

FIFTH CAUSE OF ACTION
NEW JERSEY COMMON LAW
ASSAULT & BATTERY

49. This Defendant repeats and relies upon its Answers to the prior allegations of Plaintiff's Complaint as though it were set forth herein.

50. The allegations contained in this paragraph are not asserted against this Defendant.

51. Denied.

52. Denied.

53. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and leaves Plaintiff to his proofs.

SIXTH CAUSE OF ACTION

VIOLATION OF NEW JERSEY STATE CONSTITUTION

54. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
55. Denied.
56. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
57. Denied.

SEVENTH CAUSE OF ACTION

VIOLATION OF 42 U.S.C. 1986

58. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
59. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

EIGHTH CAUSE OF ACTION

WRONGFUL DEATH

60. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
61. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.
62. This Defendant lacks sufficient knowledge and information as

to the allegations contained herein and Plaintiff is left to his proofs.

ALLEGATIONS

63. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

64. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

65. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

66. Denied.

67. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

68. This Defendant lacks sufficient knowledge and information as to the allegations contained herein and Plaintiff is left to his proofs.

WHEREFORE, this Defendant respectfully demand that Plaintiff's entire Complaint be dismissed with Prejudice and seek costs to be assessed against the Plaintiff.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

Plaintiff's claims are barred as a result of insufficient service of process.

SECOND SEPARATE DEFENSE

Plaintiff's claims are barred as a result of insufficiency of process.

THIRD SEPARATE DEFENSE

Plaintiff's claims are barred for failure to state a cause of action against this defendant upon which relief may be granted.

FOURTH SEPARATE DEFENSE

Plaintiff's claims are barred by applicable law, rule, statute or regulation, including but not limited to the Statute of Limitations, controlling or requiring the institution of suit within a certain period of time following actual accrual, was not complied with by the claimant, and accordingly, the claimant's claims are barred as a matter of law.

FIFTH SEPARATE DEFENSE

This Defendant is free of any and all negligence.

SIXTH SEPARATE DEFENSE

Any injuries or damages allegedly sustained by Plaintiff were caused through the sole negligence of Plaintiff.

SEVENTH SEPARATE DEFENSE

Any injuries or damages allegedly sustained by Plaintiff were caused through the sole negligence of any co-defendants.

EIGHTH SEPARATE DEFENSE

Any injuries or damages that may have been sustained by Plaintiff were caused through the sole negligence of third parties over whom these defendants had no control.

NINTH SEPARATE DEFENSE

Any injuries or damages that may have been sustained by Plaintiff were the result of an unavoidable accident for which this defendant is not liable.

TENTH SEPARATE DEFENSE

This defendant denies that it or anyone in its stead violated any duties or created any conditions that were the proximate cause of the damages allegedly sustained by the Plaintiff.

ELEVENTH SEPARATE DEFENSE

This defendant affirmatively and specifically pleads each and every defense, limitation or immunity provided to these defendants under N.J.S.A. 59:1-1, et. seq., the New Jersey Tort Claims Act.

TWELFTH SEPARATE DEFENSE

This defendant affirmatively and specifically pleads each and every defense, limitation or immunity provided to these defendants under N.J.S.A. 59:2-1, et. seq., particularly N.J.S.A. 59:2-3, 59:2-4, 59:2-5, 59:2-6, 59:3-2, 59:3-6 and 59:3-7.

THIRTEENTH SEPARATE DEFENSE

This defendant affirmatively and specifically pleads each and every defense, limitation or immunity provided to these defendants under N.J.S.A. 59:3-3, et seq.

FOURTEENTH SEPARATE DEFENSE

This defendant affirmatively and specifically pleads each and every defense, limitation or immunity provided to these defendants under N.J.S.A. 59:4-1, et. seq., including but not limited to, immunity for injuries caused solely by the effect of weather conditions on the use of streets under N.J.S.A. 59:4-7.

FIFTEENTH SEPARATE DEFENSE

This defendant affirmatively and specifically pleads each and every defense, limitation or immunity provided to these defendants under N.J.S.A. 59:8-1, et. seq., particularly 59:8-4, 59:8-6, and 59:8-8, including but not limited to, failure to substantially comply with the notice provisions of Title 59, failure to provide hospital and medical records, notes and bills, and failure to file a Notice of Claim within ninety days as required.

SIXTEENTH SEPARATE DEFENSE

Any recovery to which plaintiff might otherwise be entitled is subject to reduction in accordance with the limitations on damages provided in N.J.S.A. 59:9-2, including but not limited to 59:9-2(d).

SEVENTEENTH SEPARATE DEFENSE

Any liability which might otherwise be imposed upon these

defendants must be reduced by the application of the Standard of Comparative Negligence mandated by N.J.S.A. 59:9-4.

EIGHTEENTH SEPARATE DEFENSE

The Plaintiff assumed the risk and was fully cognizant of any and all circumstances surrounding the alleged incident.

NINETEENTH SEPARATE DEFENSE

The Plaintiff's claims are barred under the doctrines of laches and unclean hands.

TWENTIETH SEPARATE DEFENSE

The claims against this defendant are barred by the doctrine of res judicata and/or collateral estoppel.

TWENTY-FIRST SEPARATE DEFENSE

Any and all of the damages alleged by Plaintiff was the result of an Act of God.

TWENTY-SECOND SEPARATE DEFENSE

The Entire Controversy Doctrine bars the Plaintiff's claims against this defendant.

TWENTY-THIRD SEPARATE DEFENSE

The Doctrine of Equitable Estoppel bars the Plaintiff's claims against this defendant.

TWENTY-FOURTH SEPARATE DEFENSE

Plaintiff's claims are barred because Plaintiff has not been deprived of any right, privilege or immunity created or recognized by the United State Constitution, New Jersey State Constitution, of

any Act of Congress or New Jersey state law.

TWENTY-FIFTH SEPARATE DEFENSE

Plaintiff's claims are barred because the individual Defendants engaged in the good faith performance of their duties at all times relevant to the subject matter of the Complaint, and therefore, are entitled to immunity from liability under both State and Federal laws.

TWENTY-SIXTH SEPARATE DEFENSE

Plaintiff's claims are barred because these defendants did not deprive Plaintiff of due process under the law.

TWENTY-SEVENTH SEPARATE DEFENSE

Plaintiff's claims are barred because this defendant is entitled to qualified, executive and/or good faith immunity.

TWENTY-EIGHTH SEPARATE DEFENSE

Plaintiff is not entitled to recover punitive damages.

TWENTY-NINTH SEPARATE DEFENSE

This defendant reserves the right to assert any and all other defenses, both factual and legal, as may be justified by information subsequently obtained.

ANSWER TO CROSSCLAIM(S)

In the event any crossclaims are filed against this defendant, this defendant answers by saying it denies the allegations of any and all crossclaims.

CROSSCLAIM FOR CONTRIBUTION

This Defendant, without admitting any liability herein, asserts that, should liability be found against said this defendant, it is entitled to, and hereby claims contribution from the co-defendants named herein, (and from any other defendants that may be added from time to time by amended complaint), pursuant to the provisions of the New Jersey Joint Tortfeasors Contribution Act, N.J.S.A. 2A:53A-1, et. seq.; the Comparative Negligence Act, N.J.S.A. 2A:15-5.1, et seq.; and the Tort Claims Act, N.J.S.A. 59:9-3 and 9-4.

CROSSCLAIM FOR INDEMNIFICATION

This Defendant denies any and all liability as to the claims of the plaintiff as set forth in the Complaint and asserts that its negligence, if any, was passive, secondary, imputed and vicarious with the negligence of the co-defendant(s) named herein (and from any other defendants that may be added from time to time by amended complaint) being active and primary.

WHEREFORE, judgment is demanded against co-defendant(s) for indemnification, attorneys' fees and costs of suit.

JURY DEMAND

This defendant hereby demands a trial by jury as to all issues contained herein.

ANNA P. PEREIRA
CORPORATION COUNSEL

By: /s/ Avion M. Benjamin
Avion M. Benjamin
Assistant Corporation Counsel

Dated: May 7, 2012

CERTIFICATION OF FILING

The undersigned certifies that the Answer to the Amended Complaint on behalf of this defendant has been filed electronically.

ANNA P. PEREIRA
CORPORATION COUNSEL

By: /s/ Avion M. Benjamin
Avion M. Benjamin
Assistant Corporation Counsel

Dated: May 7, 2012

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS JARRETT CHAMBERS, ET ALS.	DEFENDANTS CITY OF NEWARK
(b) County of Residence of First Listed Plaintiff <u>ESSEX COUNTY</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorney's (Firm Name, Address, and Telephone Number) Nathaniel Davis, Esq. 60 Park Place, Ste. 208, Newark, NJ	NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known) Corporation Counsel - City of Newark, 920 Broad Street, Rm. 316, Newark, NJ 07001

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgement	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>42 USC 1983</u> Brief description of cause: Plaintiffs claim decedent's constitutional rights were violated by members of the Newark Police Dept.
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE <u>5/7/12</u>	SIGNATURE OF ATTORNEY OF RECORD
FOR OFFICE USE ONLY	

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.